

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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OCT 30 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	FCC 02-201
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 98-112
Table of Allotments, FM Broadcast Stations	)	RM-9027
(Anniston and Ashland, AL, College Park,	)	RM-9268
Covington, and Milledgeville, Georgia)	)	RM-9384

To: The Commission

MOTION FOR LEAVE TO SUBMIT ERRATA TO  
PETITION FOR RECONSIDERATION  
AND SECOND MOTION TO REOPEN THE RECORD

PRESTON W. SMALL  
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October 30, 2002

Preston W. Small (Mr. Small), by his attorney, hereby **seeks** leave to submit an errata to Mr. Small's September 3, 2002 *Petition for Reconsideration and Second Motion to Reopen the Record (Petition)*. In support whereof, the following is respectfully submitted:

1) As explained in Mr. Small's September 3, 2002 *Statement for the Record, Motion for Protection, and Notice of Resubmission of Petition for Reconsideration and Second Motion to Reopen the Record and Notice of Resubmission of Motion for Leave to File Supplement (Statement)*, on September 3, 2002 Mr. Small resubmitted his *Petition* which was originally filed on August 19, 2002 because of the vagueness of the Commission's rules regarding which orders issued in rulemaking proceedings would be published in the Federal Register. As explained at paragraph 5 of the *Statement*, "except for changing the dates on the pleadings [being resubmitted on September 3, 2002], no changes have been made to the substance of the pleadings."

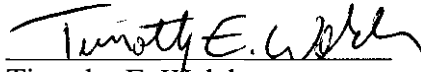
2) Within the past few days, while preparing to defend against a motion for preliminary injunction in the civil suit brought by Bridge Capital Investors against Mr. Small, *see Petition*, ¶¶ 25-34; *see also* September 3, 2002 *Motion for Leave to Supplement Petition for Reconsideration and Second Motion to Reopen the Record*, undersigned counsel noticed that Mr. Small's *Certification* which had been included in the August 19, 2002 version of the *Petition* had been inadvertently omitted from the September 3, 2002 version of the *Petition*. While it now appears that the Commission considers Mr. Small's August 19, 2002 *Petition* to have been a legally sufficient pleading, *see Report and Order*, 2002 FCC LEXIS 4267 (DA 02-2063) (released August 30, 2002) (various rulemaking requests dismissed because of Mr. Small's August 19, 2002 *Petition*), counsel seeks leave to resubmit Mr. Small's *Certification* for association with the September 3, 2002 version of the *Petition*. Because Mr. Small provided a copy of the *Certification* to all parties receiving service of his August 19, 2002 *Petition*, including WNNX, and because the time for filing oppositions to the *Petition* has not yet arrived, and because WNNX has not yet filed any opposition,

and because the substance of the *Certification* serves merely to confirm statements presented in the *Petition*, acceptance of the instant *Errata* would serve the public interest.

WHEREFORE, in view of the information presented herein it is respectfully requested that the instant motion for leave to submit an errata be granted.

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October 30, 2002

Respectfully submitted,  
PRESTON W. SMALL

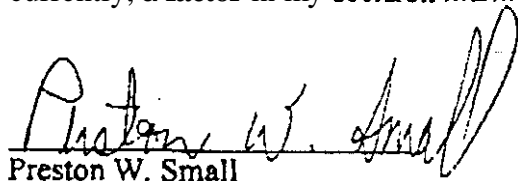
  
\_\_\_\_\_  
Timothy E. Welch  
His Attorney

## CERTIFICATION

I hereby certify under penalty of perjury that I have reviewed the forgoing *Petition for Reconsideration and Second Motion to Reopen the Record* and that the facts stated therein are true and correct to the best of my knowledge, information, and belief. Specifically, during the April-June 2002 time period I was contacted several times by Thomas Gammon who indicated that he was working on behalf of Hoyt Goodrich and Sapphire Broadcasting, Inc. to get a \$10 million payment made by WNNX License Investment Company to Hoyt Goodrich and Sapphire Broadcasting, Inc. Mr Gammon also advised me that he hoped to recoup some money he lost as a result of the Commission's 1991 decision denying his attempt to move Station WHMA to the Atlanta area.

Mr. Gammon advised me that his contacts in the Commissioners' offices had advised him that a decision would be issued by July 2002. Mr. Gammon then warned me that if I continued to litigate the rulemaking proceeding that Hoyt Goodrich and Sapphire Broadcasting, Inc. would sue me for \$10 million. Mr. Gammon explained that Hoyt Goodrich and Sapphire Broadcasting, Inc. need the orders in the instant proceeding to become final before that payment becomes due and payable and that my filing of litigation papers with the Commission was preventing that eventuality from occurring. When I mentioned that I have no contractual relationship with Hoyt Goodrich or Sapphire Broadcasting, Inc. Mr. Gammon responded that Hoyt Goodrich feels like he is being backed into a corner and that he would file suit with me, if there were no grounds to do so, in an effort to keep me from litigating the rulemaking proceeding further. My counsel, Mr. Welch, advised me over that same April-June time period that Mr. Gammon had made similar and repeated threats of civil action to him if I continued to litigate my position.

During the course of this proceeding I have not acted with a conscious awareness of the time line disclosed by Mr. Gammon, a time line which apparently constrains Hoyt Goodrich and Sapphire Broadcasting, Inc., I do not recall that I was ever aware of any such time line, and I have not filed a single paper in this rulemaking proceeding with the intent of harming or delaying any party. My goal throughout this proceeding, starting from the time that I assumed the role as the first filed proponent in this proceeding, an event which occurred months before WNNX filed its competing rulemaking petition, has been to improve my station. If my goal to improve my station conflicts with some non-parties' contractual expectations of a back end payment from WNNX, that conflict never was, and is not currently, a factor in my decision making process.

  
Preston W. Small

August 18, 2002

## CERTIFICATE OF SERVICE

I hereby certify that I have this 30<sup>th</sup> day of October 2002 served a copy of the foregoing MOTIONFOR LEAVE TO SUBMITERRATA TOPETITIONFOR RECONSIDERATIONAND SECOND MOTION TO REOPEN THE RECORD by First-class United States mail, postage prepaid, upon the following:

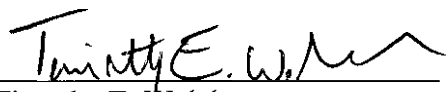
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